

No. C 09-01493 JW (PR)
ORDER OF DISMISSAL

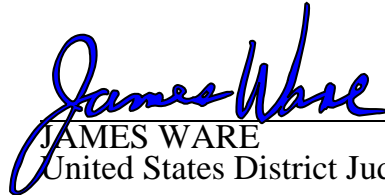
Plaintiff filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. On April 20, 2009, Plaintiff filed a letter with this Court indicating that he does not wish to proceed with the instant action. (Docket No. 4.)

1 filing a notice of dismissal.” Fed. R. Civ. P. 41(a)(1); see also Hamilton v.
2 Shearson- Lehman American Exp. Inc., 813 F.2d 1532, 1534-1536 (9th Cir. 1987)
3 (Rule 41(a)(1)(i) does not require leave of court to dismiss the action).

4 Plaintiff’s letter, which the court construes as his “Notice of Dismissal,” was
5 filed before service by the adverse party of an answer. Therefore, the Court finds
6 that plaintiff has the absolute right to dismiss his action voluntarily. See Fed. R.
7 Civ. P. 41(a)(1)(i). Based on plaintiff’s request for voluntary dismissal, this action is
8 DISMISSED without prejudice. See id.

9 The clerk shall terminate all pending motions as moot.

10
11 DATED: May 13, 2009 _____


JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALVIN A. AUGUSTINE,
Plaintiff,

Case Number: CV09-01493 JW

CERTIFICATE OF SERVICE

v.

PLEASANT VALLEY STATE PRISON, et
al.,

Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 5/28/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alvin A. Augustine K-02298
Mule Creek State Prison
4001 Highway 104
P. O. Box 409099
Ione, Ca 95640

Dated: 5/28/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk